



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,886	07/21/2005	Andrea Urban	10191/3939	7030
26646	7590	01/02/2008	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				SCHILLINGER, LAURA M
ART UNIT		PAPER NUMBER		
2813				
MAIL DATE		DELIVERY MODE		
01/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

TH

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/520,886	URBAN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Laura M. Schillinger	2813

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 November 2007.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 13-30 is/are pending in the application.
- 4a) Of the above claim(s) 29 and 30 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 13-24 is/are rejected.
- 7) Claim(s) 25-28 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. <u>12/22/07</u>                             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date <u>1/10/05</u>   | 6) <input type="checkbox"/> Other: _____                           |

## **DETAILED ACTION**

### *Election/Restrictions*

Claims 29-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claims, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/5/07.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claims 17-18 contains the trademark/trade name Teflon. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or

trade name. In the present case, the trademark/trade name is used to identify/describe the particular material and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 13-14, 16-18, 21-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's own admitted prior art (hereinafter referred to as "APA").

Applicant's own specification teaches the following claimed limitations:

13. (New) A layer system, comprising: a silicon layer; a passivating layer at least regionally and superficially deposited on the silicon layer, wherein the passivating layer has a substantially inorganic first partial layer and a substantially polymer second partial layer (APA, page2, lines:1-15).

14. (New) The layer system as recited in claim 13, wherein the first partial layer is substantially made of an oxide layer (APA, page 2, lines: 1-15).

16. (New) The layer system as recited in claim 14, wherein the first partial layer is deposited one of directly on the silicon layer and on a further layer made of silicon oxide situated on, the silicon layer (APA, page 2, lines: 1-15).

17. (New) The layer system as recited in claim 15, wherein the second partial layer is substantially made of one of a Teflon® layer and a Teflon®-like layer (APA, page 2, lines: 1-15).

18. (New) The layer system as recited in claim 16, wherein the second partial layer is substantially made of one of a Teflon® layer and a Teflon®-like layer (APA, page 2, lines: 1-15).

21. (New) The layer system as recited in claim 15, wherein the passivating layer is a layer protecting the silicon layer against an etch attack by a gaseous halogen fluoride (APA, page 2, lines: 1-15).

22. (New) The layer system as recited in claim 16, wherein the passivating layer is a layer protecting the silicon layer against an etch attack by a gaseous halogen fluoride (APA, page 2, lines: 1-15).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 13-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Chooi et al ('657).

Chooi teaches the following claimed limitations as cited below:

13. (New) A layer system, comprising:

a silicon layer (12);

a passivating layer at least regionally and superficially deposited on the silicon layer, wherein the passivating layer has a substantially inorganic first partial layer (16) and a substantially polymer second partial layer (14/18).

14. (New) The layer system as recited in claim 13, wherein the first partial layer is substantially made of an oxide layer (Col.5, lines: 35-40).

15. (New) The layer system as recited in claim 14, wherein the first partial layer has a thickness of 1 nm to 100 nm (Col.5, lines: 39-40).

16. (New) The layer system as recited in claim 14, wherein the first partial layer is deposited one of directly on the silicon layer and on a further layer made of silicon oxide situated on, the silicon layer (the first partial layer is deposited on a further layer of silicon oxide situated on the

silicon layer (12)- the Examiner notes that the silicon oxide layer has a thickness between 500 to 5000 Å- therefore the partial layer of silicon oxide amounting to 1nm (10Å) to 100 nm (1000 Å) may be deposited upon silicon oxide since the total thickness of silicon oxide may be 5000 Å).

17. (New) The layer system as recited in claim 15, wherein the second partial layer is substantially made of one of a Teflon® layer and a Teflon®-like layer (Col.5, lines: 30-45)

18. (New) The layer system as recited in claim 16, wherein the second partial layer is substantially made of one of a Teflon® layer and a Teflon®-like layer (Col.5, lines: 30-45).

19. (New) The layer system as recited in claim 17, wherein the second partial layer has a thickness of 30 nm to 800 nm (Col.5, lines: 35-40).

20. (New) The layer system as recited in claim 18, wherein the second partial layer has a thickness of 30 nm to 800 nm (Col.5, lines: 35-40).

21. (New) The layer system as recited in claim 15, wherein the passivating layer is a layer protecting the silicon layer against an etch attack by a gaseous halogen fluoride (layer 16 is an etch stop-Col.5, lines: 50-65).

22. (New) The layer system as recited in claim 16, wherein the passivating layer is a layer protecting the silicon layer against an etch attack by a gaseous halogen fluoride (layer 16 is a n etch stop-Col.5, lines: 50-65).

23. (New) The layer system as recited in claim 15, wherein the passivating layer is free of at least one of microscale and nanoscale channels that are pervious to a gaseous halogen fluoride (no channels are taught).

24. (New) The layer system as recited in claim 16, wherein the passivating layer is free of at least one of microscale and nanoscale channels that are pervious to a gaseous halogen fluoride ( no channels are taught).

***Allowable Subject Matter***

Claims 25-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:  
Prior art fails to teach nor suggest the limitations of claims 25-28 as recited therein.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Schillinger whose telephone number is (571) 272-1697. The examiner can normally be reached on M-T, R-F 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl W. Whitehead, Jr. can be reached on (571) 272-1702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/18/07

Laura M Schillinger  
Primary Examiner  
Art Unit 2813